



OCPLA NEWSLETTER

Orange County Patent Law Association
www.ocpla.org

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JANUARY 2009 LUNCH

The next OCPLA Lunch Meeting will be held on January 15, 2009 at 12:00 Noon at the Sports Club/LA – Orange County. Dan Altman and Stacey Halpern of Knobbe, Martens, Olson & Bear, LLP will be speaking. The topic will be "Fraud on the U.S. Patent and Trademark Office." Issues concerning both patents and trademarks will be covered. **MCLE Ethics** credit will be given.

The January 2009 Lunch Meeting and the other OCPLA 2009 Lunches will now take place at the Sports Club/LA – Orange County, which is located at 1980 Main St., Irvine, California 92614.

Please note that registration and payment for the January 2009 Lunch Meeting and all other Lunch Meetings must be made online ONLY at www.ocpla.org. Payment must be made at the time of registration using a credit card or a PayPal account. **Checks and other forms of payment are no longer accepted.**

JANUARY 2009 BOARD MEETING

The January Board Meeting is scheduled for 11:00 a.m. on January 15, 2009, before the OCPLA's Lunch Meeting (see above). Members who wish to present items for the Board's consideration are encouraged to contact our new president, TJ Singh at tjsingh@koslaw.com and have their items placed on the agenda.

2009 OCPLA MEMBERSHIP RENEWAL

Membership for 2009 is now available online only. At the time of registration, payment

can be made using a credit card or a PayPal account. Please register early. Go to www.ocpla.org and click on the "Membership App" link on the left hand side of the screen. If you have any questions regarding 2009 membership applications or renewals, please contact Marlene Klein at marlene.klein@cda.canon.com.

INTERNET SIGHTINGS BY JIM HAWES

What follows are some of the more notable recent internet notices, newsletters and blogs dealing with IP prosecution issues. It is a distillation by this publication's editor of the submitted IS column.

If you would like to receive the full column directly by email, write onejehawes@aol.com or subscribe at www.internetsightings.com.

Hal Wegner's newsletter – a lot of great stuff – Contact: hwegner@foley.com to subscribe.

- The 12/1/08 newsletter discussed the Qualcomm CAFC decision affirming a trial court's holding that a patentee has a duty to disclose relevant patent information to a standards setting board, but narrowed the trial court's holding of patent unenforceability.
- Hal's top ten list of cases on appeal is given in his 12/1/08 email, and also discussed in the emails of 12/4, 12/7, 12/12, 12/13, 12/18, 12/19, 12/20, 12/21, and 12/30.
- The 12/2/08 offering reviews the PTO's 2008 P-PAC Annual Report and the goals it sets (or ignores). See also Hal's 12/3 email.

- The 12/4/08 email reports, for those interested in European pharmaceutical patent law, a key speech by a British judge.
 - Another 12/4 email relays rumors about who might be a new CAFC judge.
 - The 12/5/08 message reports that the oral argument before the CAFC in *Tafas* is now available for replay, and gives the web address. See also his second 12/5, and a 12/6 message, about the case, and a 12/8 forwarding of an Internet Patent News Service criticism of PTO counsel's oral argument.
 - Another 12/5/08 email discusses the BPAI's Miyazaki decision setting a new indefiniteness standard when a pending claim has plural plausible constructions. See also Pat-O for 12/9.
 - The 12/10/08 message reports the BPAI Whalen II decision holding that an examiner had not established the obviousness of an optimized parameter.
 - The 12/11/08 email discusses the BPAI Ghuman decision in which a panel went off the deep end, holding contra to about everything earlier that an appellant can only appeal some claims. What?
 - The 12/15/08 newsletter reports the Welker CAFC decision on the application and interpretation of means claims. Oh boy. More 'clarifications.' See also Pat-O for 12/17.
 - The 12/16/08 email discusses the Avocent CAFC split decision holding that notice letters without more fail to create personal jurisdiction over the writer.
 - The 12/18/08 blog reports the Rentrop CAFC decision holding that when there is a relevant change in case law after briefing is completed before a lower court, it must be brought to that court's attention or later arguments based on the change will be waived.
 - The 12/21/08 email cites a post-Bilski sec. 101 all day (1/14) free policy conference with all-star speakers at the Brookings Inst. in DC.
 - The 12/24/08 blog reports the Sundance CAFC decision applying a strict KSR standard to find obviousness over objective contra evidence.
- Patently-O** – a blog written by Dennis Crouch – www.patentlyo.com.
- The 12/1/08 blog discusses the BlackBoard case before the PTO in which it asserts that when a final decision has been rendered in favor of a patentee, neither the PTO nor any party in that case may pursue an inter partes reexamination of the patent.
 - The 12/3/08 email discusses a recent speech by the Director of the OED reminding all that each signed paper must be reviewed in its entirety, including attachments and regardless of source.
 - The 12/11/08 blog cites Michael Sullivan's comprehensive and free IP law outline – see www.iplawoutline.com.
 - You won't believe this one – the 12/17/08 blog discusses Exr. Pal, a 25 year PTO employee who while working most recently as a quality assurance specialist had a 35% error rate (25 % was OK!), causing him to be fired. This was affirmed. So much for PTO "quality."
 - The 12/18/08 email reports the Koo BPAI decision applying the broadest claim interpretation to a section 101 analysis.

- The 12/23/08 blog discusses the Rentrop CAFC affirmance of certain TSM jury instructions pre-KSR, and notes that the defendant has requested reexamination of the patent under post-KSR standards.
- The 12/26/08 message discusses the Wheeler CAFC claim construction spat with the BPAI in which the Fed. Cir. held that the claim interpreted per the disclosure was not obvious. Wow.
- The 12/29/08 email discusses yet another Hyatt CAFC decision, this one holding that the BPAI must consider at least one representative claim (of 2400) for each challenged ground of rejection.
- The 12/30/08 blog reports a study of post examiner reversals by the BPAI. In 20% of the cases the examiner stated a new ground of rejection! The lesson – always be nice to your examiner.
- For the economists among us, on 12/30/08 Pat-O called attention to a paper reporting the price elasticity of demand for patents.

IP law 360 – a newsletter covering all IP, but focusing mainly on litigation – web address: www.iplaw360.com.

- The 12/5/08 newsletter reports a PTO appeal of a DC ruling favoring Wyeth in a patent term adjustment dispute.
- The 12/15/08 email cites a new set of patent jury instructions developed by a group of judges and patent litigators.
- The 12/15/08 email also includes a guest column suggesting that general liability business insurance may cover patent litigation allegations.
- The 12/16/08 newsletter includes a guest column suggesting that the Wyeth decision offers significantly longer patent term adjustments.

Carl Oppedahl's IP emails – contact carl@oppendahl.com.

- The 12/9/08 email discusses the savings that can result from using the Korean IPO as the PCT search and examining office.
- Another 12/9/08 email concerns the abstract – PTO rules say that it must be on a separate page **unless** the application is a published international application – see MPEP 1893.03(e).
- The 12/12/08 message reports various PCT changes, including a new supplemental international search and miscellaneous fee changes.

PTO – info from you know who, about you know what – www.uspto.gov.

- The 12/1/08 eAlert discusses, among other things, the expiration of digital certificates issued by the Electronic Business Center.
- On 12/29/08 the PTO published a long-awaited announcement that its Solicitor is now Raymond Chen. Many expect him to continue in this position after Jan. 20.

AIPLA Direct – a sporadic electronic newsletter - <http://www.aipla.org/>.

- The PTO Committee of the Association reports that the new appeal rules are being delayed by an OMB review, and that a new effective date will be published in the Fed. Register. See also Hal W's 12/9 email and his two 12/12 emails.
- The Association will host on 1/14/09 a live 60 min. web conference with the Director of the OED - "Practicing before the PTO Today."
- The Midwinter Meeting (Jan. 28-31 at Doral/Miami) program titled "Protecting

Corporate Interests Globally" is available online.

Copyright Office News – copynews@loc.gov.

- How's this for a title? (It comes from Newsnet issue 357) "Copyright Office solicits comments on proposed exemptions in rulemaking on exemption from prohibition on circumvention of technological measures that control access to works." Whew.

Copyright Society of USA – contact www.csusa.org.

*The midwinter meeting/party will be held in SF Feb. 5-7, 2009.

WIPO – The international IP group in Geneva – www.wipo.int.

- On 12/4/08 it released a notice about its electronic payment interface.

Other Stuff –

- Legalzoom.com has published a list of 10 things to keep in a fireproof safe.
- LSI will hold a patent claim construction workshop in Chicago on 2/13/08.
- LSI is offering a "Best Practices in Patent Monetization" conference in SF on 1/29-30/09.
- LSI announces a departing employee and IP workshop 2/25/09 at Palo Alto.
- LSI announces a gamer technology conference on 3/9-10/09 in Beverly Hills.
- The Univ. of Akron law school will hold its 11th patent and IP conference on March 9, 2009. Among many other topics, knowledgeable IP attorneys will discuss the Obama IP administration.
- LSI will hold a patent claim construction workshop in SF on 3/13/09.

- Google has announced that it is adding magazines to its book database.

For more information about any of the patent topics mentioned consult *Patent Application Practice* published by West and updated twice a year.

RECENT IP CASES
BY IRFAN LATEEF
KNOBBE, MARTENS, OLSON & BEAR

In *Qualcomm Inc. v. Broadcom Corp.*, No. 07-1545, the Federal Circuit affirmed a finding of unenforceability due to waiver, vacated the scope of the unenforceability judgment as too broad, and remanded for entry of an order declaring the patents unenforceable only against those products using a standard.

Qualcomm joined JVT, a Standard Setting Organization (SSO), which developed the H.264 standard. However, Qualcomm did not disclose its patents to JVT. Qualcomm sued Broadcom for infringement, and the district court found the relevant patents and their families unenforceable against the world due to Qualcomm's failure to notify JVT.

The Federal Circuit affirmed the district court's finding that there were binding disclosure obligations on all members of the JVT. The Federal Circuit stated that the standard for the scope disclosure---namely, all patents that "reasonably might be necessary" to practice the invention---is objective and "applies when a reasonable competitor would not expect" to practice the standard without a license.

Consequently, Qualcomm was found to have waived its patent rights through its silence in the face of a duty to disclose. However, the Federal Circuit held that the district court's unenforceability order was too broad because it encompassed products that did not use the H.264 standard. The appellate court determined that the patents should only be unenforceable against products that adopted the standard and remanded for entry of an unenforceability order so limited.

In *The Procter and Gamble Co. v. Kraft Foods Global, Inc.*, No. 08-1105, the Federal Circuit vacated a stay of a district court action as an abuse of discretion because the stay effectively denied P&G's motion for a preliminary injunction without proper consideration of the merits. The court remanded for a determination on the merits of whether P&G is entitled to a preliminary injunction.

Kraft requested an inter partes reexamination for a patent owned by P&G. The PTO confirmed the patentability of the patent's claims. While Kraft was appealing the reexam to the BPAI, Kraft was sued by P&G for infringing of this patent by a new Kraft product. P&G filed a preliminary injunction against Kraft, and Kraft filed a motion for a stay pending its appeal to the BPAI.

The district court granted Kraft's motion to stay without analyzing P&G's motion for a preliminary injunction. The court concluded that P&G's motion was moot, because it could not determine P&G's likelihood of success on the merits without construing the claims.

The Court held that the district court abused its discretion by effectively denying P&G's motion for a preliminary injunction because it did not assess the four factors in granting a preliminary injunction: the likelihood of success on the merits, the potential for irreparable harm if the injunction is not granted, the balance of hardship between the parties, and the public interest.

In *Takeda Chemical Industries Ltd. v. Mylan Laboratories Inc.*, No. 07-1269, the Federal Circuit affirmed the district court's award of attorney fees, expenses, and expert witness fees.

The plaintiff won an infringement suit filed in response to the defendant's ANDA Paragraph IV letter. Under 35 U.S.C. § 285, attorney fees may be awarded to the prevailing party in exceptional cases. Whether a case is exceptional is a question of fact determined by the totality of the circumstances and reversible only for clear error.

The district court held that the case was exceptional because the defendants lacked a good faith basis for their Paragraph IV letters and engaged in litigation misconduct. As evidence of bad faith, the court noted scientific errors present in the defendant's Paragraph IV letters as well as the defendant's constantly shifting set of arguments during litigation. The Federal Circuit affirmed the district court's award of attorney fees.

In addition, the Federal Circuit held that the district court did not abuse its discretion in awarding expert fees as a sanction for bad faith and vexatious litigation conduct.

In *Netcraft Corp. v. Ebay, Inc.*, No. 08-1263, the Federal Circuit affirmed the district court's claim construction and summary judgment of non-infringement.

The patents at issue involved internet billing methods. The district court construed "providing a communications link through equipment of the third party" to require "providing customers with internet access." The parties agreed that the defendants did not provide internet access, so summary judgment was granted.

The Federal Circuit affirmed the claim construction, noting among other things that the Summary of the Invention in the Specification repeatedly described "the present invention" as involving the Internet. However, the court noted that such language does not "automatically" limit the meaning of claim terms in all circumstances. The Federal Circuit also referenced the abstract and the prosecution history in affirming the claim construction.

In *Ilor, LLC v. Google, Inc.* No. 08-1178, the Federal Circuit affirmed the district court's denial of preliminary injunction and dismissed remaining issues raised in the appeal as non-final.

The patent at issue involved a method for providing hyperlink enhancements in the form of a toolbar. The district court construed the only disputed limitation of the claim as requiring that a toolbar is automatically

displayed upon placement of a cursor in proximity to a hyperlink with no further action required by the user. The accused product, Google Notebook, does not automatically display a toolbar. The court denied iLOR's motion for a preliminary injunction and granted Google's motion for summary judgment, dismissing all remaining claims against Google. The status of Google's counterclaims was unclear.

On appeal, iLOR first argued that the district court order also dismissed all of Google's counterclaims, rendering the judgment final and appealable. The Federal Circuit rejected this argument because it relied on an interpretation of the word "action" outside of its context. Here, the court ruled, the judgment did not dispose of Google's counterclaims, because the counterclaims were not implicated in assessing the propriety of iLOR's motion for preliminary injunction or Google's motion for summary judgment of non-infringement.

iLOR also argued that even if Google's counterclaims were not dismissed, the district court certified the decision for immediate appeal under Rule 54(b). Rule 54(b) allows a court to direct entry of a final judgment to some but not all claims only if the court expressly determines that there is "no just reason for delay." The Federal Circuit rejected this argument and adopted the view that bare recitation of the "no just cause for delay" standard of Rule 54(b) is not sufficient to properly certify an issue for immediate appeal. A district court must expressly inform the court of appeals of its basis for the judgment. Here, the district court judgment neither cited Rule 54(b) nor stated any justification for immediate appeal. As such, the Federal Circuit limited its review to the district court's denial of iLOR's preliminary injunction and its claim interpretation. The court affirmed the district court's interpretation in light of the claim language itself, the specification, and prosecution history.

In *Sanofi Synthelabo v. Apotex Inc.*, No. 07-1438, the Federal Circuit affirmed the district court's ruling sustaining patent validity.

Sanofi's patent covered a pharmaceutical product (Plavix®) for preventing or treating heart attacks and strokes. Apotex filed an ANDA stating that it believed the patent to be invalid, and Sanofi brought suit for infringement. The district court upheld the asserted claim of the patent as novel and nonobvious over Sanofi's earlier-filed patents.

As to novelty, the Federal Circuit affirmed the district court's ruling that the earlier-filed patents did not describe, identify, or characterize the specific chemical compound claimed in the patent. Moreover, the earlier-filed patents would not have enabled a person of ordinary skill in the art to obtain the claimed chemical compound without undue experimentation.

The Federal Circuit affirmed the district court's ruling of nonobviousness based on the unpredictable result of "absolute stereoselectivity," which enabled the claimed compound to have therapeutic properties with virtually no toxicity.

In *Welker Bearing Co. v. Phd Inc.*, No. 08-1169, the Federal Circuit affirmed the district court's grant of summary judgment that PHD did not infringe the means-plus-function limitation of claim 1 of the patent.

Welker Bearing's patent claimed pin clamps that are used to secure a work piece during welding and other manufacturing processes. Claim 1 recited a "mechanism for moving said finger." The Federal Circuit held that although the limitation did not use the word means, it was nonetheless subject to Section 112 paragraph 6 because the generic word "mechanism" was insufficient structure. The specification identified a rotating central post as the disclosed structure for performing the claimed function of "moving said finger." Because the accused PHD product did not use rotational movement, the Federal Circuit affirmed the district court's grant of summary judgment of non-infringement.

In *Avocent Huntsville Corp. v. Aten International Co., Ltd.*, No. 07-1553, the Federal Circuit affirmed the district court's

dismissal based on lack of personal jurisdiction over the defendant in a declaratory judgment action.

Avocent sued for declaratory judgment against Taiwanese patent owner Aten. Aten had sent cease-and-desist letters to Avocent and one of its customers.

The Federal Circuit held that in an action for declaratory judgment of patent invalidity or non-infringement, the specific personal jurisdiction analysis focuses on the defendant's patent enforcement activities within the state. Examples of such activities include initiating judicial or extra-judicial patent enforcement within the forum, or entering into an exclusive license agreement or other undertaking which imposes enforcement obligations with a party regularly doing business in the forum. The Court reaffirmed its previous holding, however, that letters threatening suit for patent infringement sent to the alleged infringer by themselves are not enough to create personal jurisdiction. Thus, Aten's C&D letters to Avocent, though purposefully directed towards the forum state, were not sufficient by themselves to satisfy the third prong of the test.

The Court also reaffirmed that mere sale of a defendant's products in the forum state--regardless of whether covered by the patents in suit--is not relevant to the specific personal jurisdiction analysis in a declaratory judgment action. The sales do not relate "to the patent right that is at the center of any declaratory judgment claim." As such, that Aten's products made it into the stream of commerce within the forum state. Avocent failed to show additional activities by Aten that were directed towards the forum state and related "in some material way to the enforcement or defense of the patents at issue."

In *Rentrop v. The Spectranetics Corp.*, No. 07-1560, the Federal Circuit affirmed the jury's verdict of patent validity and infringement.

Rentrop's patent covered an excimer laser catheter that enlarges the arterial channel

sufficiently to allow balloons and stents to be administered during angioplasty.

The Federal Circuit affirmed the jury's verdict that the patent was not invalid. Because Spectranetics did not bring *KSR* (decided almost four months before the trial ended) to the trial court's attention, Spectranetics waived the argument that the jury instructions on obviousness were incorrect in view of *KSR*.

The Federal Circuit affirmed the trial court's denial of JMOL on the issue of infringement because sufficient evidence was presented to sustain the jury's verdict. Rentrop's explanations of how the tip of Spectranetics's products read on claim 1 were consistent with the district court's claim construction, and the jury was entitled to credit them.

The Federal Circuit affirmed the trial court's denial of JMOL on the issue of inequitable conduct because the trial court correctly held that the evidence of intent to deceive was insufficient to support finding the patent unenforceable.

In *Hyatt v. Director, Patent and Trademark Office*, No. 07-1050c, the Federal Circuit affirmed the district court's ruling remanding the case to the Board of Patent Appeals and Interferences for further consideration in view of the Board's improper grouping of claims.

Hyatt challenged the Board's affirmation of the Examiner's rejection of a large number of claims from multiple patents pursuant to 35 U.S.C. § 145. The district court held that the Board had improperly selected certain claims to be representative of groups of claims, all of which were rejected for lack of written description support.

The Federal Circuit affirmed the district court's ruling, holding that under 37 C.F.R. § 1.192(c)(7), claims rejected under a common "ground of rejection" must share a common limitation that lacks written description support. The appellate court further held that a rejection under the same statutory basis alone does not make a common "ground of rejection." The court noted that the Board can

on remand apply the rule of waiver to any grounds of rejection not contested by Hyatt in his initial appeal.

In *Ricoh Company, Ltd. v. Quanta Computer Inc.*, No. 07-1567, the Federal Circuit vacated the district court's grant of summary judgment of noninfringement for two patents and otherwise affirmed the grant of summary judgment.

The patents related to optical disc drive technology. The district court found the asserted claims of the first patent obvious in view of a reference that disclosed every limitation except for a claimed range of recording speeds that overlapped a range disclosed in the reference. Affirming, the Federal Circuit rejected Ricoh's argument that the reference taught away because the claims were not limited to the circumstances where the teachings away applied.

Affirming the district court's judgment of noninfringement of the second patent, the Federal Circuit rejected Ricoh's argument that a claim that recited "starting" a process as "a background process" could be infringed by a process that started as a foreground process and switched to a background process.

Affirming the district court's findings that method claims of two other patents were not directly infringed, the Federal Circuit held that a party that sells software containing instructions to perform a patented method does not directly infringe the patent.

Vacating findings of no contributory infringement, the appellate court interpreted the Supreme Court's decisions in *Sony* and *Grokster* and held that selling or offering to sell a product that contains *components* having no substantial noninfringing use constitutes contributory infringement.

Vacating findings of no actively induced infringement, the Federal Circuit found that the district court erred in concluding that an indirect infringer must communicate a message of encouragement to the direct infringer. Furthermore, the district court failed

to consider all evidence relevant to whether the accused infringer possessed the requisite intent that its products be used to perform the claimed methods.

In the dissenting opinion, Judge Gajarsa argued that a proper contributory infringement analysis should evaluate the material the accused actually sells and that the majority improperly focused on the non-sale activity of embedding components in larger products.

In *Sundance, Inc. v. Demonte Fabricating, Ltd.*, No. 08-1068, the Federal Circuit reversed the district court's grant of JMOL of nonobviousness.

The patent at issue was directed to retractable segmented covering systems for "almost any structure or container," such as truck trailers, swimming pools, porches, and patios.

A jury concluded that claim 1 was infringed but invalid for obviousness. The district court granted JMOL of nonobviousness and denied a motion requesting reconsideration in light of *KSR*.

The Federal Circuit held that the district court abused its discretion in denying a motion in limine to exclude the Plaintiff's expert testimony on infringement and invalidity from a patent attorney having no relevant technical expertise. Because these issues are analyzed from the perspective of a person of ordinary skill in the art, the Federal Circuit held that it is an abuse of discretion to permit a witness to testify as an expert on the issues of infringement or validity unless that witness is qualified as an expert in the pertinent art.

The court then stated that the relevant technology was simple and no expert testimony was necessary to understand the obviousness issue. Relying on *KSR*, the court found the patent obvious in light of the disclosures of the prior art, which was not in dispute.

In *In re TS Tech USA*, No. 09-M888, the Federal Circuit granted a petition for a writ of mandamus, finding that a district court

judge clearly abused his discretion in denying a motion to transfer the case from the Eastern District of Texas to the Southern District of Ohio. The appellate court ordered the district court to transfer the case.

Lear filed suit in the Eastern District of Texas against TS Tech for infringement of Lear's patent relating to pivotally attached vehicle headrest assemblies. TS Tech filed a motion pursuant to § 1404(a) to transfer venue Southern District of Ohio, arguing that it was a far more convenient venue to try the case because the physical and documentary evidence was mainly located in Ohio and the key witnesses all lived in Ohio, Michigan, and Canada. TS Tech further argued that because none of the parties were incorporated in Texas or had offices located in the Eastern District of Texas, there was no meaningful connection between the venue and this case. The district court denied the motion based on the weight given to Lear's choice of venue and because several vehicles with TS Tech's allegedly infringing headrest assembly had been sold in the venue, giving the citizens of the Eastern District of Texas a "substantial interest" in having the case tried locally.

Based on the Fifth Circuit's decision in *Volkswagen*, the Federal Circuit held that the district court: (1) gave too much weight to Lear's choice of venue; (2) improperly disregarded the convenience of the witnesses and location of evidence; and (3) improperly gave too much weight to the interests of the citizens of the Eastern District of Texas because they have no more or less of a meaningful connection to this case than any other venue.

In *Accumed v. Stryker*, No. 08-1124, the Federal Circuit affirmed the district court's grant of a permanent injunction.

Applying the four-factor test for injunctive relief in accordance with *eBay*, the district court issued a permanent injunction. Although noting that this was a close case, the Federal Circuit affirmed, holding that the district court did not abuse its discretion in granting the permanent injunction.

Regarding the factors of irreparable harm and lack of adequate remedy at law, the Federal Circuit concluded that it was not clear error for the district court to find that Acumed's willingness to license to two other competitors did not weigh heavily against these factors. The Federal Circuit also found that the district court did not abuse its discretion in determining that the balance of hardships favored Acumed.

Finally, the Federal Circuit found that the district court did not abuse its discretion in considering the public interest. Although Stryker produced evidence that its product was safer than Acumed's, the Federal Circuit noted that the district court was in the best position to assess the credibility of Stryker's witnesses and determine whether enjoining Stryker's product would pose a public health problem.

NEWSLETTER VIA EMAIL ONLY

The OCPLA Newsletter is transmitted solely by electronic mail.

If you know of anyone who should be, but is not getting this e-mail distribution, please have them contact Stacey Halpern by email at ocpla@kmob.com.

OCPLA POLICY

Although we are open to comments and suggestions, present policy concerning publication of advertisements in this newsletter is as follows:

(1) "Positions Wanted," "Positions Available," and other similar ads will be printed free of charge and, unless otherwise requested, will run for two months; and

(2) Other ads such as word processing, legal support services, and firm announcements will be published for \$15 per issue or \$150 per year (for all 12 issues), payable in advance. We reserve the right to edit each advertisement.

Please contact the Newsletter editor to place your ad or with your comments and suggestions.

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OCPLA NEWSLETTER
Orange County Patent Law Association

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The OCPLA reserves the right to determine which, if any, submitted articles will appear in this Newsletter.

We hope that the Newsletter is helpful, informative, entertaining and interesting. Comments, ideas, announcements, proposed articles, suggestions and any other communications concerning the content, form or other aspect of this newsletter may be directed to:

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Qualified candidate must have experience in patent prosecution with a technology background (minimum 10 years preferred). Experience as corporate counsel a plus. Ideal candidate must possess excellent communication skills and be professional, charismatic, and self-motivated. Prior business development experience preferred.

Position requires the ability to prospect via phone, email or other medium, face-to-face sales calls, interaction with clients and potential clients at networking events, and the ability to work independently and as a team player. Please send resume to sbowen@shimokaji.com.
03/09

PATENT ATTORNEY/AGENT POSITION

MacPherson Kwok Chen & Heid LLP seeks a patent prosecution attorney/agent for its San Jose and Irvine Offices. The ideal candidate has an Electrical Engineering, Computer Science, or Physics degree with some engineering and patent prosecution experience.

For more information about our firm, visit our website at www.macpherson-kwok.com. Please provide resume to recruiters@macpherson-kwok.com.
1/09

Orange County company looking for solo practitioner or small firm to do occasional patent prosecution work in medical/polymer arts. Please send resume or firm description to darzint@yahoo.com"

**PATENT ATTORNEY
POSITION WANTED**

Recent law school graduate seeks an entry level patent attorney position in Orange County. Qualifications include: USPTO registered, California Bar member, Ph.D. in genetics, B.A. in molecular and cell biology. Patent prosecution experience includes both molecular biology and medical device patents. Looking for part time or full time position in patent prosecution, litigation, or both. For full resume or CV, please e-mail Adam Diamant at adamdiamant@gmail.com.
2/09

Intellectual Property Counsel**Opportunity Snapshot:**

Edwards Lifesciences (NYSE: EW) is a global leader in products and technologies to treat advanced cardiovascular disease, the global leader in acute hemodynamic monitoring and the number-one heart valve company in the world. This individual will support one of our fastest growing business units, Cardiac Surgery Systems. This is an excellent opportunity for someone looking to transition into a corporate environment with greater work life balance, opportunity for growth, and broad exposure to a variety of patents. Responsibilities include invention disclosure handling, patent application preparation and prosecution, portfolio management, and licensing and transactional work.

Our Requirements:

- A minimum of 4 years of experience practicing patent law (law firm experience preferred).
- J.D. required, along with a Bachelors degree in a technical field such as Electrical Engineering, Mechanical Engineering, Physics or Computer Science.
- Must be a registered patent attorney with the United States Patent Office.
- Must have experience in drafting and prosecuting patent applications along with experience assisting in client intellectual property assertion reviews.
- The ability to effectively bridge the technical and commercial aspects of the work.
- Must have the ability to influence senior executive decisions and have strong written, verbal communication and presentation skills, as well as the ability to successfully manage outside counsel.

How to Apply:

Please e-mail resume to Jayshri Patel, jayshri_patel@edwards.com.
2/09

2009 OCPLA EVENTS SCHEDULE

Date	Location	Speaker/Event	Topic
January 15, 2009	Sports Club/LA - Orange County	Dan Altman and Stacey Halpern of Knobbe, Martens, Olson & Bear, LLP	Fraud on the U.S. Patent and Trademark Office (MCLE Ethics credit)
February 19, 2009	Sports Club/LA - Orange County	Erwin Chemerinsky, Dean of UCI School of Law	Perspectives on the U.S. Supreme Court and The Future of UCI's Law School: shaping the future of intellectual property law in Orange County
March 19, 2009	Sports Club/LA- Orange County	Ron Schoenbaum and John King of Knobbe, Martens, Olson & Bear, LLP	In re Bilski; Prosecution and Litigation Perspective